



Signed and Filed: April 18, 2024

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: ) Bankruptcy Case  
PG&E CORPORATION, ) No. 19-30088-DM  
 ) Chapter 11  
- and - ) Jointly Administered  
PACIFIC GAS AND ELECTRIC COMPANY, )  
Reorganized Debtors. )  
☐ Affects PG&E Corporation )  
☐ Affects Pacific Gas and )  
Electric Company )  
☒ Affects both Debtors )  
\* All papers shall be filed in )  
the Lead Case, No. 19-30088 (DM). )

**AMENDED ORDER OVERRULING SAYEGH BROTHERS MOTION<sup>1</sup>**

On April 9, 2024, the court heard the Sayegh Brothers' Motion to Determine If the Trustee's Modification of the Claims Resolution Procedure Was Approved by Bankruptcy Court and If Not So Approved to Grant Requested Relief Under 11 U.S.C. § 105(a)

<sup>1</sup> This Order replaces Dkt. 14422 to incorporate minor non-substantive edits.

1 and § 1142(a) and B.L.R. 9014-1(b) (3) (Dkt. 14319) (the  
2 "Motion") and the *Fire Victim Trustee's Objection to Sayegh*  
3 *Brothers Motion* (Dkt. 14388) ("FVT Objection"). Appearances are  
4 noted on the record. For the reasons explained below, the court  
5 will sustain the FVT Objection and deny the Motion.

6 **I. BACKGROUND**

7 On June 19, 2020, the Debtors filed the *Debtors' and*  
8 *Shareholder Proponent's Joint Chapter 11 Plan of Reorganization*  
9 *Dated June 19, 2020* ("Plan") (Dkt. 8048), which was the result  
10 of many revisions and long negotiations by various stakeholders  
11 over a months-long process.

12 On June 20, 2020 the court entered an *Order Confirming*  
13 *Debtor's and Shareholder Proponent's Joint Chapter 11 Plan of*  
14 *Reorganization Dated June 19, 2020* ("Confirmation Order") (Dkt.  
15 8053). The Plan and Confirmation Order established the Fire  
16 Victim Trust ("FVT") as of the Plan's effective date, on July 1,  
17 2020. The main role of the FVT is the resolution and payment of  
18 Fire Victim Claims as defined in the Trust Agreement described  
19 below. The process by which the FVT carries out this role is  
20 set forth in the Fire Victim Trust Agreement ("Trust Agreement")  
21 and the Fire Victim Claims Resolution Procedures ("CRP") (both  
22 at Dkt. 8057), which are incorporated into the Confirmation  
23 Order.

24 The Trust Agreement directs the FVT's Trustee and Claims  
25 Administrator to resolve Fire Victim Claims in accordance with  
26 the CRP, and also gives reasonable discretion in their  
27 determinations without the need to seek court approval in that  
28 decision making. Trust Agreement §§ 2.3 and 2.4. The Trust

1 Agreement further states that "[t]he Claims Administrator's  
2 determination, as confirmed by the Trustee, of eligibility,  
3 amount, and allowance of each Fire Victim Claim shall be final  
4 and binding, and shall not be subject to any challenge or review  
5 of any kind, by any court or other person or entity, except as  
6 set forth in Section IX of the CRP." Trust Agreement § 2.4(d).  
7 Section IX of the CRP sets forth the process by which only  
8 specifically named Fire Victim Claimants, who preserved the  
9 right to seek judicial or other review of their Fire Victim  
10 Claim determination, could seek such review.

11 Section II briefly sets forth the types of Fire Victim  
12 Claims and supporting documents that may be submitted to the FVT  
13 for determination, including claims for business losses. The  
14 FVT further developed a claims questionnaire for submission for  
15 Fire Victim Claimants. The "[FVT] also developed guidelines,  
16 consistent with the claims determination provisions of the CRP,  
17 to ensure the consistent consideration and determination of  
18 various types of Fire Victim Claims based on information  
19 provided to the Trust through the submission of the claims  
20 questionnaire." FVT Objection (Dkt. 14388 ¶ 9). This included  
21 the development of Guidelines for the determination of Business  
22 Income Loss ("BIL") claims.

## 23 **II. SAYEGH BROTHERS DAMAGE CLAIMS**

24 Sayegh Brothers suffered enormous losses in the 2018 Camp  
25 Fire in Paradise, CA, including the total destruction of its  
26 retail buildings and loss of substantial rental income from  
27 three long-term tenants at that location.

1 Outside of the FVT, Sayegh Brothers recovered three million  
2 dollars from its insurance carrier for the loss of its real  
3 property and structures. It asserted a claim in the FVT for  
4 economic damages of \$3,307,769 plus attorney fees, interest, and  
5 cost of an additional \$1,321,156.01. The FVT allowed a total  
6 BIL claim of \$527,538.61

7 After exhausting its non-judicial remedies in the FVT,  
8 Sayegh Brothers filed the Motion. In the Motion, and at oral  
9 argument presented by its counsel, it conceded that pursuant to  
10 the CRP approved by the court as part of the Plan and  
11 Confirmation Order, there was no judicial review available to  
12 revisit the final determination by the FVT. Instead, it cited  
13 to this court's *Memorandum Decision on Inverse Condemnation*  
14 (Dkt. 4895) and built its argument around its belief that the  
15 FVT had made unauthorized changes to the CRP, altering the  
16 guidelines related to BIL in a manner that it contended was  
17 inconsistent with controlling California law, and in particular,  
18 the California's constitutionally required determination of the  
19 amount of just compensation. Sayegh Brothers cites CCP §§  
20 1235.125 and 1260.220(a), and *People v. Lynbar, Inc.*, 253  
21 Cal.App.2d 870 (1967), among other cases, to demonstrate that  
22 California eminent domain law views leases as a land interest  
23 that increases the value of the land for which an owner should  
24 be compensated.

### 25 **III. DISCUSSION**

26 The court's authority to revisit determinations by the FVT  
27 for claimants does not exist for Sayegh Brothers or any other  
28 PG&E wildfire claimants other than a handful whose claims have

1 now been finally determined without the need for judicial  
2 intervention.

3 Counsel for Sayegh Brothers argues that this is not an end  
4 run on the absence of authority to second guess the FVT's  
5 determination, but rather an inquiry into whether or not  
6 fundamental bankruptcy procedures were ignored. There is no  
7 evidence to suggest that they were ignored. All the Sayegh  
8 Brothers has is a statement by its counsel as follows:

9 The appeal was conducted via Zoom on August 15, 2023.  
10 Judge Hight opened the hearing by stating that the  
11 procedures the Trust is using was approved (sic) by  
the bankruptcy court therefore the appeal is denied.

12 *Declaration of Michael R. Bush*, Dkt. 14319-1, 5:1-4.

13 That is all there is. In fact, the BIL and the detailed  
14 specifics (described below) were developed by the FVT well  
15 before counsel made this argument and well before the FVT issued  
16 its first determination on the Sayegh Brothers claim. The BIL  
17 include extensive eligibility criteria broken into various  
18 categories, including, more specifically, those that covered  
19 what are called "Significant Property Damage" and even more  
20 specifically, claimants whose losses resulted from the Camp  
21 Fire. In those criteria, claimants are entitled to damages  
22 calculated on leased property that has been lost and has  
23 directly resulted in economic loss. The losses for the Camp  
24 Fire, per the BIL criteria, are not compensable after forty-  
25 eight (48) months from the fire. This appears to be at the  
26 heart of Sayegh Brothers' complaint here.

27 In rejecting the Sayegh Brothers' argument, the FVT appeals  
28 neutral stated as follows:

1 Claimant appeals the Trust's determination of its lost  
2 rent on 3 commercial leases based on two grounds:

- 3 1. The trust used the valuation method, which was  
4 calculated based on Claimant's Federal Income Tax  
5 Statement's profit & loss statement to determine  
6 the amount which should be compensated for the loss  
7 of the 3 long term leases, instead of following  
8 established criteria for loss of property due to  
9 Eminent Domain/Inverse Condemnation.
- 10 2. Claimant's leases had 164 months to run before  
11 expiration. The Trust only allowed 48 months under  
12 its "Loss Period Caps". Claimant believes it is  
13 entitled to the full 164 months.

14 As explained below, the FMV derived by either  
15 valuation method makes virtually no difference when  
16 applying the Trust's Business Income Loss Eligibility  
17 Criteria. That Criteria limit losses to 48 months  
18 pursuant to the Trust's established procedures.

19 Claimant claims a FMV of the leases of \$3,307,769.  
20 Applying the Trust's "Loss Period Caps" to that number  
21 Claimant would be entitled to \$514,281. (This number  
22 is derived by dividing \$3,307,769 by 164 months, the  
23 term of the leases, which equals \$20,169 per month)  
24 Computing the loss over the Trust's 48 months  
25 allowable loss at the rate of \$20,169 per month  
26 results in \$514,281 due to Claimant. The Trust has  
27 determined the loss to be \$527,538.61. Thus, applying  
28 the Trust's rules, Claimant is being awarded \$13,257  
more under the Trust's calculations than under its  
calculations.

Claimant further alleges that other claimants have  
been allowed more than the 48 months set forth in the  
Trust's Business Income Loss Eligibility Criteria.  
This reviewer could find no applicable substantiation  
of this claim.

For the above reason this appeal is affirmed.

*Notice of Trustee Determination*, Dkt. 14319-1, p. 20.

1       It appears that not only is there no authority for  
2 revisiting a final determination by the FVT, there was no  
3 impropriety or ignoring of pre-existing court approved  
4 procedures that control the administration of the FVT. More  
5 importantly, the foregoing demonstrates that the methodologies  
6 for analyzing claims of this nature are similar whether under  
7 eminent domain/inverse condemnation procedures or federal income  
8 tax profit and loss statements, but only insofar as the  
9 procedures adopted by the FVT to limit loss income property  
10 damages based upon consistently applied criteria<sup>2</sup>. Whatever  
11 California law may fix as the amount of any claim such as Sayegh  
12 Brothers', what must be paid on that claim in this federal  
13 proceeding governed by bankruptcy law and principles need not be  
14 the same.

15       If those criteria adopted by the FVT were wrong in the  
16 first instance, a proposition the court neither endorses nor  
17 rejects, there is no basis to believe that court procedures were  
18 ignored or that the determinations of the FVT can or should be  
19 revisited.

#### 20       **IV. CONCLUSION**

21       For the foregoing reasons, the FVT Objection is sustained  
22 and the Motion is overruled.

23  
24                               **\*\*END OF ORDER\*\***

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26       <sup>2</sup> By analogy, Bankruptcy Code § 502(b)(4) caps claims of insiders  
27 and attorneys to reasonable amounts, and § 502(b)(6) caps those  
28 of landlords holding rejected leases to a formula of roughly  
fifteen percent of lost future rent.

COURT SERVICE LIST

ECF Recipients